

DOCKET FILE COPY ORIGINAL

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

SEP 25 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Defining Primary Lines)

CC Docket No. 97-181

COMMENTS OF BELL ATLANTIC

Edward D. Young, III
Michael E. Glover
Betsy L. Roe
Of Counsel

Edward Shakin

1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201
(703) 974-4864

September 25, 1997

No. of Copies rec'd
List ABCDE

0+11

TABLE OF CONTENTS

	<u>PAGE</u>
Introduction and Summary.....	1
I. Primary Residential Lines Should Be Identified With A Simplified Approach Using Existing Data	2
A. Bell Atlantic's proposed definition simplifies the identification	2
B. The Commission should reject self-certification as the initial means of identifying non-primary lines	4
C. A simplified definition allows for a simplified identification method	6
D. The Commission should delay implementation of separate charges for non-primary lines	8
II. The Commission Should Retain Its Definition For Single Line And Multi- Line Business Customers	9
III. A Simplified Process Allows For Simplified Verification	11
Conclusion.....	13

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket No. 97-181
Defining Primary Lines)	

COMMENTS OF BELL ATLANTIC¹

Introduction and Summary

In its Access Reform Order, the Commission imposed a higher initial cost recovery burden on non-primary residential lines and multi-line businesses than on primary residential lines or single line businesses. In the case of non-primary residential lines, the Commission has pushed both regulators and their regulated carriers one step down a slippery slope towards expensive and extensive categorizing and tracking of the living arrangements and purchases of individual customers. In this rulemaking, the Commission has the opportunity to create rules that minimize the intrusiveness and, to the extent possible, simplify the categorization process. The alternative is an Orwellian nightmare of government mandated collection and maintenance of personal data. This is contrary to the interests of customers, local carriers and the Commission.

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

Even the simplest methodology for differentiating primary and non-primary residential customers' lines cannot be put in place overnight. Regardless of method, carriers face myriad implementation hurdles that make it virtually impossible to comply with the current January 1 start date. Rather than allow this one requirement to sabotage a smooth transition to restructured access rates, the Commission should act favorably on USTA's reconsideration petition and delay implementation of separate charges for residential non-primary lines until one year after a final order in this rulemaking.

I. Primary Residential Lines Should Be Identified With A Simplified Approach Using Existing Data

A. Bell Atlantic's proposed definition simplifies the identification.

The definition of residential primary lines should be based on a simplified approach that will allow categorization using existing data. Bell Atlantic proposes the following definition:

Residential subscriber line of a billing name customer, at a single service address, which is any of the following:

- 1. the only line provided to a residential customer (billing name) at that location;*
- 2. the line designated by the billing name customer at the point of ordering service;² or*
- 3. where a billing name customer has not designated a line, the first line installed by the ILEC or any carrier reselling the ILEC's line.*

² This option would not be available for customers that use more than one carrier. See discussion in subsection C, below.

This clear and simple definition has many advantages. First, because it is precise and not subject to interpretation, it will avoid inconsistent treatment among customers. Second, as discussed more fully below, it will allow carriers to make the initial determinations based on existing records. Third, it avoids measures that require intrusive information gathering into the private living arrangements of its customers.

The definition also avoids the creation of an adversarial relationship between a carrier and its customers. Bell Atlantic should not be put into the position of policing the compliance of its customers. By relying on existing billing data as the basis of the differentiation, there is no need to try to obtain additional information otherwise unrelated to phone service.

At the same time, by ignoring individual living arrangements, the proposal avoids penalizing individuals who could be inappropriately classified as non-primary line customers with a broader measure. For example, if there are multiple independent subscribers living in a single address, with separate lines provided to two or more of the residents under separate billing names, this definition would allow each subscriber to have his/her own phones treated as his/her primary line. Thus, if an elderly parent boards with his/her children, each can independently have his/her own primary line.

If, on the other hand, that same family acts as a single household in their purchase of phone service and puts two or more lines under a single billing name, then only one line would be designated as primary and the others would be treated as non-primary. In both situations, the differentiation required in the Commission's non-primary line policy is accomplished without the need to obtain any information concerning the personal living arrangements as distinctions are based on the actual service choices made by the customer.

By limiting the identification to a single address, the proposed definition would not capture all service to second homes as non-primary. This is a reasonable accommodation given the daunting task of identifying customers with second homes. While some customers may have more than one home served by the same local carrier, others will have multiple homes served by multiple local carriers. There is no way to both simplify the methodology, and to capture and keep current the necessary data on those customers. Even if only one carrier were involved, it could be an impossible task to ascertain if identical names were the same or different people. The Notice cites proposals for the creation of a national data base,³ but such a data base would require phone companies to collect and store intrusive information about every residential customer in the country. It would also require a number of unaffiliated carriers to have access to that data base, thereby gutting the current restrictions on releasing customer proprietary network information ("CPNI"), particularly where customers have unlisted or unpublished numbers. The social costs of such a big brother approach would far outweigh any potential benefit of capturing the relatively small number of second home owners. Even beyond the social cost, the possibility of error is much higher once the Commission requires carriers to act based not only on data they collect, but to correlate their own results with data collected by other carriers.

B. The Commission should reject self-certification as the initial means of identifying non-primary lines.

The Commission should reject the tentative conclusion that self-certification should be used as the principal method to differentiate primary and non-primary lines. The Notice bases its tentative decision on the expectation that self-certification "presumably would minimize the

³ Notice, ¶ 12.

substantial administrative costs.”⁴ This assumption is incorrect. In fact, self-certification would make the differentiation process slower and more costly. For example, there are approximately 24 million residential lines in the Bell Atlantic territory.⁵ In order to facilitate self-certification, customers for each of these lines would have to be sent a request seeking identification of primary and non-primary lines. Since experience has shown that the majority of customers do not respond to bill inserts, a separate mailing probably would be required. Just the costs of a mailing with a return mail envelope would be almost 20 million dollars.⁶ This doesn’t take into account the additional costs to process the results, to do follow up calls, handle customer inquiries, and other public information efforts. The total cost of the self-certification process could grow many times larger.⁷ There would also be indirect costs, such as additional calls into the business office. Such added call volume would also take away from the company’s ability to meet other customers’ service needs.

Given the certainty of subscriber non-responses, there would have to be follow-up rounds of inquiry, guaranteeing a prolonged process. Even then, ultimately there would have to be some methodology for a default determination. There will also be a significant number of customers that will not respond regardless of the intensity of the solicitation.

⁴ Notice, ¶ 9.

⁵ See 1996 ARMIS Report 43-08, Table 3, Row 910, Columns DG+DH (total of 24.4 M).

⁶ Cost of presorted mail with return envelope (approximately \$.81) x 24.4 M = \$19.7 M

⁷ Price cap regulated carriers would need to pass these added expenses on to their customers through exogenous cost increases.

C. A simplified definition allows for a simplified identification method.

Using a simplified identification method will allow for the initial identification of primary lines to be made through existing customer billing records. Computer searches of existing records could identify those residential customers with one line, or the first line installed among multiple lines.⁸ Once the initial determinations are made, customers with new connects and transfers could make new or modified designations as part of their initial contact with the local carrier's business office, thereby allowing customer input without generating significant additional costs.

One complication to any method of identification is addressing situations where a single customer is served by multiple local exchange carriers. In those situations, self-certification does not work because it would put competing carriers in the untenable position of having a vested interest in which carrier the customer selects as the primary line. For competing carriers using resold services, getting the primary line designation has a double benefit. First, it would reduce their costs.⁹ Second, it would allow them to offer resold second line service at relatively lower rates than the incumbent local exchange carrier ("ILEC") thereby enhancing the reseller's competitive position. If each carrier tries to persuade the customer that its line should be the primary line, the inevitable result will be a whole new type of slamming complaint, with multiple carriers claiming that the same customer designated their line as the primary line. In order to

⁸ While Bell Atlantic has informally estimated sales of second lines for marketing purposes, the underlying tracking has only been applied to new purchases and cannot address existing customers. Moreover, estimates have not been tied to a specific regulatory definition of non-primary lines.

⁹ These carriers would pay a lower presubscribed interexchange carrier charge ("PICC"), and a lower end-user subscriber line charge ("SLC").

avoid such a muddle, the self-certification option cannot apply when a customer uses both a reseller and ILEC to provide service.¹⁰ Then, the default rule -- the first line purchased -- should dictate which line is the primary line.¹¹

The Commission also asks for comment as to how to inform consumers about the impact in the change in Commission policy concerning non-primary lines.¹² The Commission should reject suggestions that it micro-manage this education process. All carriers have a vested interest in clear explanations to their customers whenever there is a change in rates. It has been carriers, and not the FCC or state commissions that have informed consumers of past changes in rates and structure. Indeed, the Commission's own rules recognize that a carrier should inform customers of a rate increase "in a form appropriate to the circumstance."¹³ In an environment of increasing competition, carriers have an even greater interest in shaping the tone and content of their communications with their customers and not rotely repeating government pronouncements dictated by regulators.

Moreover, the specific proposed announcement is flawed.¹⁴ The generic references to "your local telephone company" will be confusing to many customers and inaccurate for those

¹⁰ Those resellers that are the sole carrier for a customer should be required to use the same three step process to identify primary lines. They should also have an obligation to report such information to the reselling ILEC to allow for proper billing and be subject to the same audit and enforcement procedures as the ILEC.

¹¹ Company records can identify the first line purchased, even if some lines are sold through a reseller. While records would not include lines sold by other facilities-based carriers (including those relying on unbundled elements), such carriers do not pay SLCs or PICCs, so there is no need to identify whether their customers' lines are primary or secondary.

¹² Notice, ¶ 22.

¹³ 47 C.F.R. § 61.58(a)(4).

¹⁴ Notice, ¶ 22.

customers that subscribe to more than one local carrier. The SLC does not "cover" the cost of making interstate service available, only a portion of that cost. In addition, while a paragraph of generic explanation might be suitable for a newspaper notice, it would only serve to confuse when read to an individual customer ordering service. For such a contact, it is far more appropriate to give the customer the explanation for their specific charges, and not generic information that will have different impacts on various customers.

D. The Commission should delay implementation of separate charges for non-primary lines.

A simplified approach using existing company billing records is the fastest, easiest, and least costly way to make designations of primary lines. However, even under this method, there is insufficient time to have a mechanism in place by the current deadline of January 1, 1998. As the Notice makes clear, the segmentation of the customer base into new categories is a complex process regardless of definition or methodology. No carrier can reasonably even begin to implement the identification process until the Commission makes a final determination as to what the methodology must be.¹⁵ Given that reply comments in this rulemaking are not due until just ten weeks before the revised tariffs must be filed, it would be impossible to conduct the computer searches and analysis required by January 1, 1998. Identification through customer self-certification would take even longer. Because the amount collected through the second line SLCs and PICCs would affect the level of per-minute charges, the January switched access rate filing cannot include the PICC and SLC distinction for second lines and still be effective at the

¹⁵ A company that guessed wrong as to the final requirements would have gained no head start on the actual process and would have wasted considerable resources and expense.

start of next year.¹⁶ Carriers have no way even to forecast additional revenue associated with non-primary lines until the definitions are settled and the actual designations are made. Moreover, the timeline must include opportunity for customer notification and education. In addition, once the designations are established, ILECs must also adjust their billing systems and train customer representatives to deal with questions and designation changes.

Given the range of implementation issues before differentiated charges can successfully be put in place, the Commission should grant USTA's request to extend the implementation deadline for assessing higher charges on non-primary lines until one year after the Commission issues its order resolving these issues.¹⁷ The additional time will permit the industry to make a single, definitive move to the new rate structure using a common set of definitions and to introduce their customers to these rate changes with appropriate explanations, thereby avoiding unnecessary consumer confusion.¹⁸ A delay of this one change will allow the other access rate changes to be put in place on time and without disruption.

II. The Commission Should Retain Its Definition For Single Line And Multi-Line Business Customers

Unlike residential lines, where the Commission has never required carriers to differentiate between primary and non-primary line customers, there is already a differentiation in place among business customers. Existing tariffs differentiate between single line and multi-line

¹⁶ Even with no differentiation of non-primary residential lines, the remaining access reforms will result in considerable reduction in per-minute rates.

¹⁷ *Access Charge Reform*, CC Dkt. No. 96-262, USTA Petition for Reconsideration at 4-5 (filed July 11, 1997).

¹⁸ Attempting to impose an interim solution would have the opposite effect, requiring two changes in rates, and increasing the total cost and confusion unnecessarily.

businesses. There have been no complaints about the distinctions used, and there is no reason to throw out the existing identifications and start over. Unlike residential service, carriers can use existing categories and adjust SLCs and PICCs for business customers in the time frame listed in the Access Reform Order.

There is no need to create a whole new system to address businesses that use multiple carriers. The only instance of multiple carrier use that can impact regulated rates is the small number of businesses classified as single line customers that also take service from competing carriers. The vast majority of business customers that use more than one carrier will already have multi-line service. While single line businesses may switch carriers, they are far more likely to move their entire account than to go through the time and expense of dealing with two or more local service providers for a relatively small account. The cost of altering the definitions and coordinating those changes among carriers far outweighs any benefit of assessing higher charges for those few businesses that are treated as a single line business by one carrier, but have additional service from a second carrier.

Even keeping the current definition in place, there must be one change in the rules to capture the service arrangements of business customers of resellers. As with residential service, resellers must track and report whether their own business customers have single or multiple lines. For the sake of consistency, and because it is a proven definition, resellers should use the same definitions that are already part of the Commission's rules for dominant carriers.¹⁹

¹⁹ See 47 C.F.R. § 69.104(h).

III. A Simplified Process Allows For Simplified Verification

The Commission questions whether ILECs would under-report the number of non-primary lines in order to market second lines.²⁰ Under Bell Atlantic's proposal, if a customer adds an additional line in his or her own name, that line will automatically be treated as an additional line.²¹ The only opportunity for subjective judgment rests with the customer and not the carrier.²²

To the extent that the Commission determines that an audit process of the assignment of primary and non-primary line designation is nevertheless appropriate, it should be limited to an audit of the ILEC's or reseller's processes. This will allow the audit to check the methods the carrier uses to categorize residential lines and allows the auditor to provide assurance that the methodology is reasonable and consistent with Commission rules.

The Commission should not allow the auditor to have access to actual customer designations. These designations will be a part of customer records and clearly must address "the quantity, technical configuration," and "type" of service used by a customer.²³ They will include the same information found in the customer's local exchange service bill.²⁴ As a result, the information clearly must be considered CPNI. There is no policy justification for the Commission to require that customers' privacy be compromised by having non-employees

²⁰ Notice, ¶ 17.

²¹ If a new line is put in another name, local service providers should not be put in the position of having to question the personal circumstances of the second name customer.

²² Even that judgment deals with deciding which line should be treated as primary, not how many.

²³ *See* 47 U.S.C. § 222 (f)(1)(A).

²⁴ *See* 47 U.S.C. § 222(f)(1)(B).

review such CPNI for an audit. This is especially true, when, as here, a procedural audit will fully address any policy concerns of the Commission.

The Notice also seeks comment on whether estimates of the number of second lines from models, such as the Hatfield estimates, should be used in conjunction with an audit to verify carrier designations. Using such hypothetical models would not “verify” anything. The Hatfield estimates are nothing more than projections, based on theoretical relationships with historical demographics.²⁵ Even the model’s proponents expect a variance from actual line counts.²⁶ In contrast, the carrier designation should be based on actual billing records. Thus, the proposal would put into question actual data if it failed to match a theoretical economic estimate.²⁷ It simply makes no sense.

²⁵ See *Federal-State Joint Board on Universal Service*, CC Dkt. No. 96-45, Report and Order at ¶ 51 (rel. May 8, 1997).

²⁶ *Id.* at ¶ 53. Indeed, even some *basic* line counts estimated by the model have varied by almost 100% between iterations of the model. There is no record to support an assumption that Hatfield model results have *any* accuracy in projecting *second* line counts. Thus, there is no basis to rely on the Hatfield model for any purpose here, including as a screening device for selecting carriers that would be subject to audit.

²⁷ There is also no need for additional enforcement procedures. So long as an ILEC or a reseller is following the required procedures, there is no basis for a claim and the Commission has enforcement mechanisms today to address carriers that ignore procedural requirements. ILECs certainly should not be subject to penalties where their own good faith efforts produce actual results that differ from any standardized measure. The Commission can also limit disputes by allowing ILECs to base their estimates of non-primary line demand on the same methodology that is used for identification of non-primary lines for billing purposes. Using the same methodology assures that ILECs suffer no automatic financial penalty because the mandated classification procedures produce results that differ from unrelated measures of non-primary lines.

Conclusion

The Commission should reject complex and intrusive ways of differentiating primary and non-primary lines and instead should adopt a definition and methodology consistent with these comments. Whatever definition is adopted, the Commission should approve USTA's Petition for Reconsideration and delay implementation of a higher charge for non-primary residential lines.

Respectfully submitted,


Edward Shakin

Edward D. Young, III
Michael E. Glover
Betsy L. Roe
Of Counsel

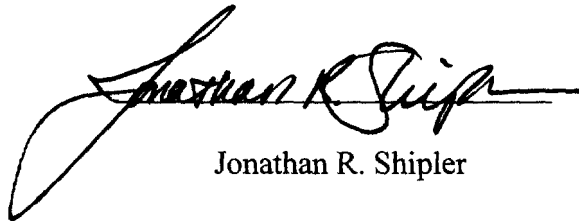
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-4864

Attorney for the
Bell Atlantic Telephone Companies

September 25, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 1997, a copy of the foregoing
“Comments of Bell Atlantic” was served by first class U.S. mail, postage prepaid, on the parties
listed on the attached service list.

A handwritten signature in black ink, appearing to read "Jonathan R. Shipler", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Jonathan R. Shipler

* BY HAND

Sheryl Todd *
Accounting & Audits Division
Universal Service Branch
Federal Communications Commission
2100 M Street, N.W.
Room 8611
Washington, DC 20554
(3 Copies)

ITS, Inc.*
1919 M Street, NW
Room 246
Washington, DC 20554